

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 1997-444-C and 2004-336-C
ORDER NO. 2016-
December __, 2016

IN RE: Petition of the South Carolina Office of)	JOINT PROPOSED ORDER
Regulatory Staff for Rule to Show Cause)	OF THE OFFICE OF
Regarding Securus Technologies, Inc.)	REGULATORY STAFF
Phone Charges to Inmates)	AND SECURUS
.)	TECHNOLOGIES, INC.

This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Petition of the Office of Regulatory Staff (“ORS”) pursuant to S.C. Reg. 103-825 and other applicable rules of practice and procedure of the Commission seeking an Order of the Commission to require the Respondent Securus Technologies, Inc. (“Securus” or “Company”) to show that it is charging its approved tariffed rates in compliance with South Carolina statutes and Commission rules and regulations.

By way of background, Securus is a telephone utility as defined by S.C. Code Ann. §58-9-10 and was first granted a Certificate of Public Convenience and Necessity by the Commission in Docket No. 1997-444-C to provide inmate payphone services.¹ Securus currently provides inmate telephone service to numerous confinement facilities in South Carolina under the provisions of Chapter 9 of Title 58 of the South Carolina Code. The most recent tariff for Securus was filed

¹ Securus holds Certificates of Public Convenience and Necessity as previously issued by the Commission. See Commission Order Nos. 1991-122, 1997-53, 1998-265, 2005-4, 2010-803.

with this Commission on June 20, 2016 and set rates for the first minute for local, intra-LATA and inter-LATA calls as well as rates for each additional minute for local, intra-LATA and inter-LATA calls.

In its Petition ORS stated that, on or about August 7, 2016, it was informed through an article in *The State* newspaper that rates for inmates listed in a contract between Securus and the Lexington County Detention Center allegedly exceeded those set forth in the June 20, 2016 tariff on file with the Commission. ORS additionally became aware in August 2016 that rates for inmates under a contract between Securus and the York County jail also allegedly exceeded the Securus tariff. ORS also alleged that it could not independently determine, based on information and data provided by Securus, whether tariffed rates were in fact being charged to users of Securus' services.

As a result of these facts and findings, ORS commenced the present action on August 16, 2016 by filing the Petition herein requiring Securus to appear before the Commission and show that it is charging rates authorized by the Commission. Subsequent to receiving ORS' Petition, the Commission established testimony filing dates for both ORS and set a hearing for 2:30 pm on November 9, 2016 at the Commission's Hearing Room located at 101 Executive Center Drive, Suite 100, Columbia, South Carolina.

At the hearing ORS was represented by Shannon Bowyer Hudson, Esquire, and Jeffrey M. Nelson, Esquire, and Securus was represented by Benjamin Mustian, Esquire, and Mitchell Willoughby, Esquire, of the law firm Willoughby & Hoefer, P.A.

In support of its Petition, ORS presented the testimony of Mr. Christopher Rozycki, ORS' Director of Telecommunications. In his direct testimony Mr. Rozycki testified that he had reviewed Securus's contracts with the Lexington County Detention Center and the York County

Jail as well as sample bills which Securus provided to ORS in response to information requests. (Rozycki Direct, p. 3, lines 15–19). Mr. Rozycki testified that ORS found that the rates provided in the contracts between Securus and Lexington and York Counties did not match the tariff which Securus had on file with the Commission. Further, ORS could not confirm that the charges which ORS reviewed on the sample bills provided by Securus complied with the Companies tariff. (Rozycki Direct, p. 3, lines 20-22).

Securus presented testimony from Mr. Curtis Hopfinger, Director of Regulatory and Government Affairs for Securus. In his direct testimony Mr. Hopfinger testified that after the Company became aware of the August 7th article in *The State* newspaper, the Company immediately began an investigation and determined that their contract with the Lexington Detention Center contained a rate schedule that was partially incorrect. The Company further determined that its contract with the York County Jail contained a similar error. Mr. Hopfinger testified that the Company promptly corrected these errors by executing amendments to both the Lexington and York contracts. (Hopfinger Direct, p. 4, lines 19-21). Mr. Hopfinger asserted on behalf of Securus that at no time were any customers of its system actually charged rates which exceeded the maximum rates provided in its South Carolina Tariff. (Hopfinger, p. 4, line 21 - p. 5, line 2). Mr. Hopfinger testified that the incorrect rate schedules with Lexington and York Counties was an oversight resulting from Securus having had to amend over 1,800 contracts with facilities located across the country in order to comply with certain provisions of a recent Federal Communication Commission order. (Hopfinger Direct, p. 5, line 10 - p. 6, line 15).

In Rebuttal Testimony filed with the Commission on October 20, 2016 Mr. Rozycki disagreed with that portion of Mr. Hopfinger's testimony which claimed that Securus had complied with the recommendation in his direct testimony that the Company demonstrate that the tariffed

rates were actually being charged. Mr. Rozycki claimed in Rebuttal that the information provided to ORS by Securus in fact demonstrated that amounts being charged customers, while not exceeding the tariff rates, did not always precisely match the published tariffed rates (Rozycki Rebuttal, p. 2, lines 2–10). Mr. Rozycki therefore recommended that Securus be required by the Commission to submit billing information to the Commission and ORS demonstrating what rates are actually being billed to customers so that this information could be available to customers to determine what their actual bills might be.

While Mr. Hopfinger alleged in his surrebuttal testimony that all issues had been resolved in this case based on Securus having provided evidence that it was charging at or below its tariffed rates, (Hopfinger Surrebuttal, p. 1, lines 12 - p. 2, line 8) ORS continued to argue at the hearing that Securus should be required to provide a price list to allow ORS, the Commission and Securus customers the ability to determine both what a customer may be charged for a call and to verify, after the fact, that charges are being made correctly.

Subsequent to the conclusion of the hearing by the Commission on ORS' Petition, on December 12, 2016 Securus filed with the Commission a document titled "South Carolina Price List" which provides detailed information regarding the rates charged to Securus customers based on the facility from which the call is placed, the length of the call, the type of call (i.e. local, interlata or intralata), and in some instances the time at which the call is made. Shortly thereafter, ORS filed correspondence with the Commission stating that ORS was satisfied that the "South Carolina Price List" filed with the Commission by Securus satisfied the concerns raised in the ORS petition.

On the basis of the testimony and evidence presented at the hearing on November 9, 2016 and the detailed price list filed by Securus, the Commission finds that Securus has not charged

rates in excess of their South Carolina tariff and now have on file with both this Commission and the ORS a rate sheet which eliminates any ambiguities regarding the rates charged by Securus to customers of their services at the various detention facilities and jails in South Carolina which contract with Securus.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to S.C. Code Ann. Sections 58-9-10, et seq. and 58-9-200 et seq.

2. Securus is subject to the jurisdiction of the Commission pursuant to S.C. Code Ann. §58-9-10 et seq. and holds Certificates of Public Convenience and Necessity issued by the Commission in Docket No. 1997-444-C as well as other dockets. The most recent tariff of Securus was filed with the Commission on June 20, 2016 and provided that rates would not exceed the following:

<u>Collect/Prepaid Collect/Debit/Prepaid Calling Cards</u>	<u>First Minute</u>	<u>Each Additional Minute</u>
Local	\$1.75	\$0.12
Intra-LATA	\$2.50	\$0.40
Inter-LATA	\$2.50	\$0.40

3. We find that based on the testimony and evidence presented by the parties that Securus has affirmatively established that at no time did it bill rates to users of its telecommunications systems at facilities in South Carolina which exceeded the tariffed rates listed in the preceding paragraph.

4. Based on the pricing and related information set forth in the “South Carolina Price List” filed by Securus with both this Commission and ORS, we find that there is sufficient detailed

information available to accurately determine what rates are paid by consumers and how consumer's bills are calculated.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. No further action is required by Securus at this time as it is currently in compliance with all prior Commission Orders and the terms of its tariff and has satisfied ORS regarding notice and detail on rates being charged its customers in South Carolina.
2. Should Securus negotiate new contracts or rates with Detention facilities in South Carolina those rates must comply with the tariff which Securus has on file with the Commission.
3. Securus must keep on file at all times with the Commission and ORS a current price list to provide customers with information from which they may determine Securus' actual rates charged for inmate calling services and if they are being or have been properly billed for those services.

BY ORDER OF THE COMMISSION:

Swain E. Whitfield, Chairman

ATTEST:

Comer H. Randall, Vice Chairman

(SEAL)